

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TONYAL MARIE VIGNEUX,
HALEY MARIE SHELL, and JULIAN
MICHAEL SHELL, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
January 10, 2006

Petitioner-Appellee,

v

MICHAEL OTIS SLONE,

Respondent-Appellant,

and

LOWANDA SHELL, SCOTT VIGNEUX, and
STEVEN TIMMERMAN,

Respondents.

No. 263742
Wayne Circuit Court
Family Division
LC No. 03-425995-NA

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Respondent Michael Slone appeals as of right from the order terminating his parental rights to the minor child Julian Shell pursuant to MCL 712A.19b(3)(h). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, respondent argues that the trial court clearly erred in its application of MCL 712A.19b(3)(h). We review for clear error the trial court's determination that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

After the minor child was removed from his mother's care because of her substance abuse, it was determined that the child's father was respondent, who was then incarcerated on a sentence of 2½ to 15 years. Respondent established his legal paternity and offered his aunt as a possible placement for the child, but petitioner elected to place the child with a maternal aunt instead. Petitioner eventually filed a petition seeking the termination of the parental rights of respondent on the basis of numerous statutory grounds, including MCL 712A.19b(3)(g) and (h).

At the termination trial on June 7, 2005, respondent testified that he had been incarcerated for approximately fourteen of the past fifteen years due to seven felony convictions. He stated that his current sentence started in October 2002, he was scheduled to appear before the parole board in one month, and his earliest release date was in September 2005. However, he also mentioned that his most recent felony conviction constituted a parole violation of a 1997 conviction for which he received a twenty-year maximum sentence. He re-offered his aunt as a possibility for placement of the child. In a bench opinion, the trial court terminated respondent's parental rights under MCL 712A.19b(3)(h), which authorizes a court to terminate parental rights if, "The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years"

The trial court did not clearly err in finding on the basis of clear and convincing evidence that respondent's lengthy sentences would deprive the child of a normal home for more than two years. The length of respondent's sentence could theoretically extend another 12 to 13 years. Even though he stated that he would soon be eligible for parole, his history of quickly disregarding the law after being released should shatter any illusion that a parole board would soon grant him the physical freedom to establish a normal life with the young child, especially in light of his lengthy criminal record.

Respondent's arguments also ignore the fact that his criminal background and nonexistent relationship with the child would require him to spend a substantial amount of time demonstrating his ability to provide proper care. This would necessarily include him living a crime-free lifestyle while maintaining employment and an appropriate home. Given respondent's history of being released for only a short time before committing another offense and being re-incarcerated, the trial court did not clearly err when it concluded, on the basis of clear and convincing evidence, that respondent's incarceration would prevent him from establishing a normal home within two years. MCL 712A.19b(3)(h). Because of the child's youth, it follows that the trial court did not clearly err when it determined that respondent would not be able to establish reasonable care and custody in a reasonable time. *Id.* Petitioner's initial lack of contact with respondent does not affect this analysis.

Finally, the record does not reflect that termination was clearly contrary to the child's best interests. MCL 712A.19b(5). Respondent had met the child only once and did not have a bond with him. Furthermore, respondent had a lengthy criminal history and failed to demonstrate an ability to live a crime-free life for an extended period of time.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot